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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

July 18, 2002

Via Hand Delivery

Marlene H. Dortch, Secretary
Federal Communications Commission
The Portals
445 - 12th Street, SW
Washington, D.C. 20554

Re: Notice of Ex Parte Presentation by Talk America
CC Docket Nos. 01 - 338, 96-98 and 98-147

Dear Ms. Dortch:

Pursuant to Sections 1.1206(b)(1) and (2) of the Commission's Rules we hereby submit, on behalf of Talk America ("Talk"), in the above-captioned docketed proceedings, this notice of an oral ex parte presentation made on July 17, 2002 to Matthew Brill of the Federal Communications Commission. The presentation was made by myself, George Vinall, Executive Vice President - Business Development of Talk America, Francie McComb, Executive Director of Regulatory Affairs of Talk America and Brad Mutschelknaus, Partner, Kelley Drye & Warren LLP. A set of talking points was distributed during the meeting; a copy is attached to this notice.

Pursuant to Sections 1.1206(b)(1) and (2) of the Commission's Rules, we submit an original and one (1) copy of this oral ex parte notification and attached talking points for inclusion in the public record of the above-referenced proceedings. Please direct any questions regarding this matter to the undersigned.

Respectfully submitted,

Heather Burnett Gold
Principal
The KDW Group LLC

Encl:
cc: Matthew Brill

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THE UNE-P WORKS: The Only Choice for Residential Competition

George Vinall - Executive Vice President – Business Development

Francie McComb - Executive Director – Regulatory Affairs

July 17, 2002

Ex Parte Presentation

Agenda

- ◆ Talk America Overview
- ◆ State of the CLEC Industry
- ◆ 1980's Competitive Model Worked
- ◆ UNE-P Necessary for Mass Markets
- ◆ No Alternatives to ILEC UNEs Exist
- ◆ Switching UNE Essential For Residential Choice
- ◆ Role of the States
- ◆ Realistic Path to Facilities Investment
- ◆ Conclusion



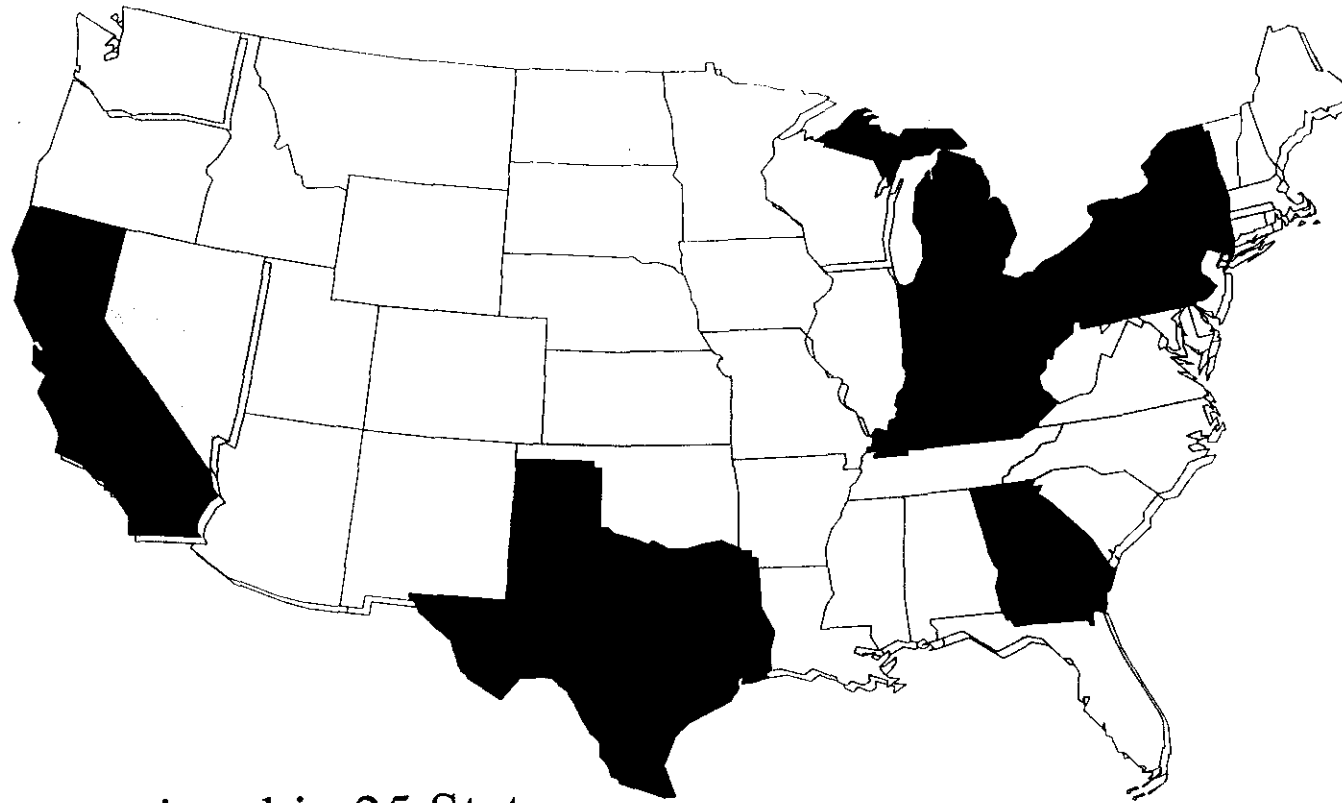
Wednesday, July 17, 2002



Talk America Overview

- ◆ Local and long distance phone company:
 - Delivers local service in 25 states using UNE platform
 - Nationwide long distance on proprietary network.
- ◆ Focus on residential (85%) and small business customers:
 - Over 240,000 bundled local lines and 600,000 long distance customers
 - 4,443 end offices served
 - 15,737 NPA/NXXs served.
- ◆ Operations are profitable and generate cash:
 - 2002 guidance is revenues of over \$300 million and EBITDA of \$35 to \$45 million
 - Strategic cap ex focused on back office systems for customer service.



Broad Operational Footprint



-  Operational in 25 States
-  Focused marketing in 9 States



Wednesday, July 17, 2002

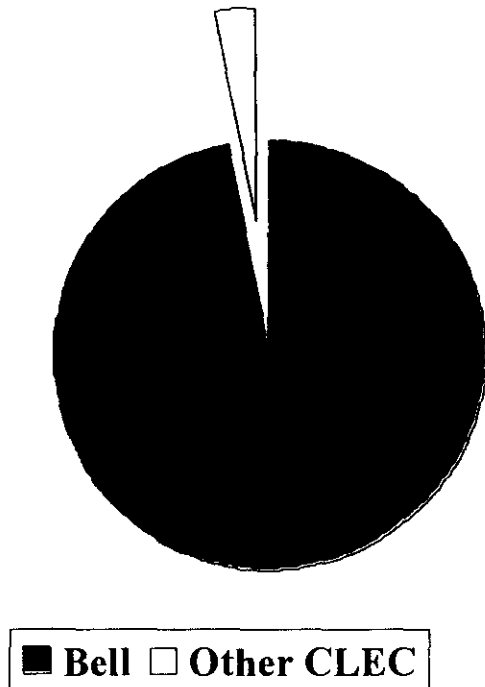
Select Q1 2002 Financials

Select Financials 1st Quarter 2002

Local Lines	194,000
Revenue	\$79.4 million
Net Revenue	\$39.2 million
EBITDA	\$14.8 million
Net Income	\$ 8.1 million

Market Opportunity Has Not Disappeared

For Consumer Telecom Services



- ♦ Bells retain monopoly w/96% share of consumer market.
- ♦ Competition brings more services, better prices and better service for **all** service providers (MI perfect example).
- ♦ Dominant long distance carrier lost > 60% since 1984.
- ♦ CLEC getting few mass market customers.

Consumer Market For Voice Services

- ♦ \$136 Billion
- ♦ 162 million residential and small business access lines



State of the CLEC Industry

- ◆ Bankruptcies (at least 63 to date) and layoffs:
 - ◆ “Field of Dreams – Build It and They Will Come” approach to market entry proven problematic
 - ◆ Investors poured over \$880 billion into telecom since 1997 without requiring customers and revenues first.
- ◆ Stocks down across the board while debt and private equity markets have shut.
- ◆ But there remains a large and attractive market opportunity:
 - ◆ “Customer First” approach is the answer
 - ◆ UNE-P provides the solution for consumer market.

1980s' Competitive Model Worked

- ◆ 1982 AT&T Consent Decree should serve as roadmap to FCC.
- ◆ Arbitrary 45% access rate differential fueled competition.
- ◆ MCI & Sprint built massive facilities only *after* they grew customer base.
- ◆ Resale market drove prices to costs.
- ◆ Customer got choice and value

The Old F-B CLEC Business Model Was Inverted

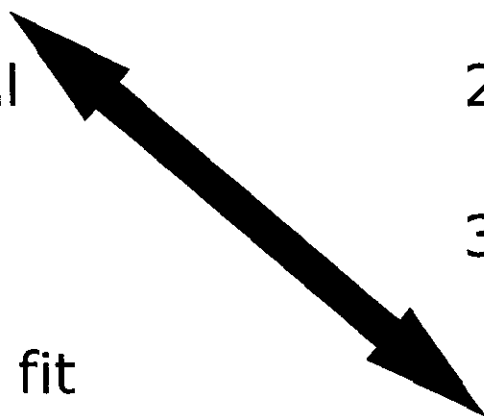


Old FB CLEC MODEL

1. Build facilities on speculation;
2. Raise additional capital through bond offerings;
3. Try to get customers that fit network;
4. Plan to be acquired to retire debt.

UNE-P CLEC MODEL

1. Get The Customers First;
2. Build a scalable OSS back-office;
3. Innovate and Differentiate Product Offerings;
4. Build facilities to meet customer demand.



UNE-P Necessary for Mass Markets

- ♦ Mass market competition requires:
 - Quick and seamless turn up of customers
 - Ubiquity of service offering
 - Ability to offer customers features and functions which ILEC control by virtue of monopoly network structure
 - No interruption of E911, particularly for residential customers.
- ♦ UNE-P only solution for mass markets competition:
 - Required by Telecom Act of 1996.
- ♦ FCC analysis will find the following UNEs are essential and ILEC must provide at TELRIC rates:
 - Loops / Ports
 - Shared Transport
 - Access to databases
 - Switching w/ features and functions
 - Signaling
 - OSS.



No Alternatives to ILEC UNEs Exist

- ◆ Loops/Ports: ILECs have monopoly for last mile access to 99.9% of residences and small businesses.
- ◆ 130+ years of American ratepayer subsidy built national infrastructure, now controlled exclusively by ILECs - no economic or technical capability of replication.
- ◆ Shared Transport: Only ILECs have links to every end office in which the geographically dispersed mass market has customers. Only ILEC can economically aggregate the low volumes of mass market traffic onto economic interoffice facilities.
- ◆ Access to Databases and OSS: Complete dependence on ILEC.
- ◆ New entrants should not start with a competitive disadvantage.

Switching UNE Essential for Residential Choice

- ♦ Switching: Efforts by ILECs to demonstrate that switch alternatives exist fail to prove any alternatives are available for the mass market, from either a capacity or technical point of view:
 - CLECs not required to provide under TA96
 - Competitors did not build for additional/wholesale capacity
 - Presence of alternative switches in a given market indicates nothing about type of switch, capacity or operational state.
- ♦ Given today's technology, the ILECs provisioning processes and the demands of the mass market, there is no way to efficiently and effectively eliminate the switching UNE without eliminating competition for and to these consumers.

Hot Cut Process Impairs Switching Alternatives

- ◆ Hot cut process constitutes an impairment in the mass market:
 - Today's ILEC hot cut process designed for large business customers will not work for mass market
 - Rules for mass market hot cuts require FCC oversight – Under today's processes, cost prohibitive and time consuming
 - Residential customers need continual link to E911, service simply cannot be down.

- ◆ New York State Example (Total Industry):
 - Verizon monthly average # of hot cuts during 2001: 4,700
 - Average # of UNE-P customers turned up per month: 205,000
 - Will need to improve monthly performance by 4400%.



Hot Cut Process Impairs Switching Alternatives

- ◆ Talk America NY Specific:
 - Existing NY base: 24,000 lines in 402 central offices
 - For Talk America alone in NY, it would take more than 5 months at a cost of \$840,000* to convert base at current processing rates, based on Verizon only working on Talk's lines over that period.
 - Talk America has another 220,000 lines through country.
- ◆ No carrier has yet demonstrated how to accommodate residential public safety concerns during hot cut process.
- ◆ Until a seamless, electronic method, such as AT&T's proposed ELP, for performing hot cuts is developed, there are no alternatives to UNE-P for serving the vast majority of mass market customers.

*This is based on the current "promotional" rate offered by Verizon of \$35 per line. Should rates revert to previously approved rates, the cost would rise to \$185.54 per line or \$4.45 million to convert all of Talk's existing lines.



Other Impediments To Residential Competition

Requirement for collocation, if even available, would make it uneconomic to serve most customers in mass market.

Talk America New York Customer Distribution

Number of Talk Customer Lines	Number of Central Offices	Cumulative % of Offices
1 - 5	167	42%
6 - 10	72	59%
11 - 25	72	77%
26 - 50	37	87%
51 - 100	23	92%
101 - 500	24	98%
501 - 1000	3	99%
<u>1000+</u>	<u>4</u>	<u>100%</u>
Total	402	

Talk America would be forced to abandon all but the most concentrated end offices, i.e. those 4 with 1000+ lines, ***eliminating service to over 12,000 lines in NY alone.***



Role of the States

- ◆ Only the States have the necessary experience and processes to deal with issues at the granular, market-specific level contemplated by the DC Circuit (a decision which is fundamentally flawed as noted by the FCC's Petition for Review).
- ◆ Due to the States' responsibility for retail rates, only they can respond to concerns over wholesale/retail pricing relationships.
- ◆ The States are closer to customers and local markets conditions and thus are better to evaluate impact of telecom changes on the individual markets.
- ◆ FCC should continue to defer to the states in the determination of what UNEs are appropriate for each local market.

Intermodal Competition is a Myth

- ◆ Cable and satellite phone service simply has not developed (ask Michael Armstrong).
- ◆ Wireless companies are owned by wireline monopolies.
- ◆ All Intermodal traffic runs through wireline networks.
- ◆ FCC Competition Report does not reflect marketplace conditions.
- ◆ UNE-P offers real consumer choice in service provider.



UNE-P Fuels Facilities Investment

- ◆ Marketplace is dictating build requirements.
- ◆ Market volumes combined with new technology are leading deployment.
- ◆ Talk America is evaluating local switching costs.
- ◆ Carrier wholesale market developing.
- ◆ AT&T ELP project warrants serious consideration.
- ◆ 1980 FCC policy led to multiple, redundant long-distance networks.



Conclusion

- ✓ Telecom Industry Must Return to the Old Investment Formula ... 'Customers and Revenues First' ... Facilities will then follow (LD model).
- ✓ Telecom Industry Must Have Regulatory Stability ... FCC Must Enforce Existing Rules, Not Keep Changing to Please ILECs.
- ✓ The States, With Their Local Expertise, Must Play a Dominant Role in Any Decisions Concerning Availability of UNEs.
- ✓ Market is Large and Growing ... Investment Opportunities Will Continue for Appropriate Business Models.
- ✓ Consumers Want Choice and Value ... A Return to Monopoly Is Not Acceptable.